

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DARRYL L. JONES,

Petitioner,

vs.

BRIAN WILLIAMS, SR., et al,

Respondents.

Case No. 2:11-cv-01453-JCM-PAL

**ORDER**


Petitioner has appealed from the denial of his motion to reopen the case (#24) and the denial of his motion to dismiss the reopening of his case (#28). The court dismissed this action because petitioner had not exhausted any of his grounds for relief in the state courts. The court denied petitioner's request for a stay because, with no exhausted grounds, there was nothing for the court to stay, and the court was obliged to dismiss the action. Order (#22). See also Rasberry v. Garcia, 448 F.3d 1150, 1154 (9th Cir. 2006). The dismissal was without prejudice, leaving petitioner free to file a new habeas corpus petition in this court when he exhausted his state-court remedies. Petitioner did not appeal.

Petitioner then filed the above-mentioned motions (#24, #28). The court denied them for two reasons. First, the judgment dismissing the action was final, and the court did not leave open the possibility that the court would reopen the action when petitioner was finished in state court. Second, petitioner indicated that his post-conviction proceedings in state court still had not finished, and thus any grounds that he would raise in this court still would be unexhausted. Order (#30).

1 Reasonable jurists would not find the court's conclusions to be debatable or wrong, and the court  
2 will not issue a certificate of appealability for the denial of petitioner's motions (#24, #28).

3 IT IS THEREFORE ORDERED that petitioner's motion for certificate of appealability (#31)  
4 is **DENIED**.

5 DATED: August 27, 2013.

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8 JAMES C. MAHAN  
United States District Judge  
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